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Heaven's Bankers: Inside the Hidden World of Islamic Finance

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Islamic finance started to get the world's attention as it collides with capitalist interest of profit maximization at the global level. During this time, Harris Irfan was among the early generation of 'structuriers' who were responsible in designing financial contracts that are appealing to the conventional investors and observe Shariah requirements. Despite having an illustrious beginning, Irfan's journey into the world of Islamic finance has eventually sparked a puzzle within himself: Is Islamic finance heading towards the right direction? He started to critically evaluate Islamic financial industry by focusing on the legal and moral aspects of Islamic finance based on both the letter and spirit of Islamic law. Irfan managed to share his rich professional experience and personal acquaintance with scholars to expose the false flag of Islamic finance and how it is lurking the harms which it seeks to avoid in the first place.

The prologue section narrates how Irfan's journey into the world of Islamic finance began in early 2001. The terrorist attacks on 11 September 2001 is described as a blessing in disguise that lead to exponential growth of interest in Islamic finance as huge amount of investment that originated from the Middle East was diverted back to the region. While the Western world shuns Islamic law as an outdated code of laws, Islamic finance may be able to prove that higher moral and universal justice are the core of Islamic law. Despite this noble goal, the author raised a fundamental question at the beginning of his journey into Islamic finance: are morals and profits compatible to sustain an ethical yet practical banking model?

The book starts with a story of an Islamic financial expert being laid off as the great recession was looming the Islamic financial industry at the Dubai International Financial Centre (DIFC). I believe the story sparked curiosities among readers as to why the financial industry was in such a bad shape. The author clearly defines the focus of the book, which is to provide a critical evaluation of modern Islamic finance based on the letter and spirit of Islamic law. The history of modern Islamic finance started with the aspirations by the Muslims to fulfill their socio-



economic needs while observing the Shariah requirements, which are basically interest-free with profit-sharing arrangements. Unfortunately, these Islamic banks failed to realize the promise of development due to many weaknesses that are inherent in the practice. The great potential of Islamic finance managed to pull global conventional banks to join the wagon by opening Islamic windows and they successfully managed to compete with the original Islamic banks due to their comparative advantages. These global conventional banks had the upperhand in Islamic financial industry since they possess bigger pool of funds, greater expertise in banking system, better sales network, plus the regulatory-legal requirements that tend to accommodate the conventional banking operations.

The author then tried to clear the general misconception about Islamic finance, where Islamic finance is not simply interest-free, but it is loaded with values that are derived from the objectives of Islamic law. The author explains the fundamentals of Islam and how the religion shaped the evolution of Islamic law from the time of the Prophet (peace be upon him) to the codification of commercial law and the spread of money economy during the Crusades. He then narrates origin of money and emphasizes that its role should be limited to medium of exchange since interest seems to be commonly prohibited across religion and censured by philosophers.

The following three chapters relate the roles of scholars and bankers of Islamic finance. The scholars play the major role in interpreting the principles of finance from the sources of law. The fundamental rule in Islamic commercial law is that all financial transactions must be free from two elements: *riba*, and uncertainty. While the author spends several pages and paragraphs at explaining the technical implications and arguments of these prohibitions, he did not address the plausible justifications intended in the spirit of Islamic law. In addition to that, the author simply mentioned the blanket prohibition of *riba* as decreed by scholars to justify why *riba* is not permitted in investment loans as well. The authors could have better refuted the claim of bankers on the permissibility to charge interest on investment loans based on the following arguments. Firstly, commercial loans were prevalent during the Prophet's time since the main source of income of Makkah was trade. Secondly, by referring to the same farewell sermon that the author described in Chapter 2, where the Prophet annulled the *riba* of his uncle, al-Abbas ibn Abdul Muttalib (Muslim, 2006). Al-Abbas is known as a benevolent person which renders it impossible to assert that he was charging interest on consumption loans given to the poor. Instead, the *riba* was charged on loans given to the rich merchants of Makkah (Siddiqi, 2004).

On its birth, modern Islamic finance was facing a supply-side constraint due to lack of available products. This opportunity managed to attract global banks to set up Islamic wings manned by professional bankers under the guide of Shariah scholars. At the beginning, the scholars would study the investors requirements with the help from the professional bankers and design contracts that accommodate both the investors preference and Shariah law. After numerous engagements between the scholars in developing Islamic financial contracts, naturally the professional bankers would be able to grasp the Shariah requirements and managed to structure these financial contracts under a minimal intervention by the scholars. Later, many global banks found out that these financial contracts could easily be replicated, and this explains why many global banks did not hesitate to lay off their Islamic finance specialists during the world financial crisis despite their illustrious contributions at the early development stage.

According to the author, Islamic finance thrust into the world stage when some conventional bankers who are muslims have taken the responsibility to develop Islamic finance as their personal jihad to promote Islam. These bankers suffered from cognitive dissonance as they found that many practices of conventional finance are against their religious belief. The

rapid progress of Islamic finance was also due to the involvement of Shariah scholars who were astounded by the huge fees paid to them for their fatwas by global conventional banks. However, the author did not discuss the inherent conflict of interest from this fees payment that may have caused the Islamic law to be compromised at the initial development of Islamic finance under the pretext of necessities and temporary solutions. Unfortunately, as the story unfolds, the involvement of global banks in promoting Islamic finance has changed from an initially strategic decision to an opportunistic behavior. This seems to confirm the suspicions that the global big banks were simply tempted by the huge profit opportunity and not really about promoting ethical finance. Hence, when the world economy was in turmoil, the banks immediately laid off the Islamic financial experts, and some even wind up their Islamic windows and ascribe it to strategic business decisions. Another interesting point mentioned by the author was on the possibility that bank is not an Islamic concept. Unfortunately, he did not elaborate this point in greater length.

Throughout the book, the author emphasizes that morality and justice in issues related to wealth, which are universal across religion and inherent in human common sense, are lacking in modern financial markets. He draws similarities on the prohibition of *riba* in Christianity and Islam, but *riba* managed to sweep into Christianity via *contractum trinius*, an elaborate medieval ruse where three separate contracts of investment, sale of future profit, and insurance against lost, are combined to circumvent the Church's prohibition of *riba*. The three contracts, while individually adhere to the letter of the Church Law, when they are combined in a single contract they defeat the spirit of the Law. This is where the author tried to draw parallel with the evolution progress in Islamic finance. The application of *bai al-inah*, *commodity-murabahah* or *tawarruq*, where complex contracts are tailored by Shariah scholars to accommodate the risk appetite of investors while not breaking the literal prohibition of *riba*. He is worried that Islamic finance seems to follow the same route in Christianity where eventually the effects of *riba* will be common in financial contracts. While the simple form of *riba* is still regarded as not permissible, these complex Islamic financial products produce results that are similar to *riba*-based contracts in conventional banking. Borrowing the phrase used by the author twice in the book with some modifications: if it looks like a *riba*, smells like a *riba* and acts like a *riba*, then it is a *riba*.

From the various success stories narrated in the book, I could easily identify reverse engineering as the standard of operation in Islamic finance where products are invented and crafted based on the risk and profit preference of the investors. Regardless of how intricate the investors' preference for raising money, the Shariah scholars seem to be able to design or endorse a product that suits both their clients' demand and Shariah requirements. The ability of our scholars to produce practical solutions is a clear evidence of their brilliant minds at understanding the working of financial industry. Unfortunately, the role of scholars in many Shariah boards nowadays is limited to evaluation and endorsement of products, they are no longer actively involved in product development (Bakar, 2016). Worst, the established legal algorithm template in product development process could be replicated easily (Al-Jarhi, 2016), which cost many Islamic finance practitioners to lose their job to their conventional counterparts. The prevailing practice of reverse engineering method in the industry also suggests that the scholars depict a reactionary behavior in the industry, where they act based on demand from the investors and finding counterparts of conventional products. They lack the motivation to initiate the forward engineering approach, where they should be proactive at the forefront of Islamic finance by developing products that carry both the letter and spirit of the law. The scholars are not aggressive enough at throwing ideas how Islamic finance should be and what are the financial products that should be the main instruments that better reflect the objectives of law and promote public interest.

Nevertheless, the roles played by the scholars seem to be improving. When modern Islamic finance was born, the scholars seem to compromise a lot on Shariah requirements in order to protect and support the young industry. These concessions were given on the pretense of necessities and temporary due to no available alternatives. The scholars remind the industry that the concessions were intended to be temporary until a better solution is found. Unfortunately, some of these concessions were abused by the bankers where they even replicate the contracts and mass produce it to the market. As the industry matures, there were times where the scholars managed to flex their muscle and did not budge to the demands of investors that violate the Shariah. Few scholars were brave enough to question the prevailing practice in the industry and suggest for radical solutions, albeit the cold response from the industry.

While there are numerous financial contracts in Islamic heritage as explained by the author, a vast majority of contracts in modern Islamic finance are derived from sukuk. The main factor for huge interest in sukuk is due to its features that are similar to conventional bonds, hence making it easier for investors to comprehend and fulfill their preference for fixed returns in Islamic finance. The standard operation of sukuk involves the creation of special purpose vehicles (SPV) as intermediaries in charge of the underlying assets between investors and borrowers. As with other contracts in Islamic finance that involve the creation of SPVs, the complex structure of these contracts bears similar traits to the *contractum trinius*, where the application of legal tricks to circumvent the law is biased towards the protection of the interest of investors, rather than arising from a genuine situation of needs and public interest.

The author argued for ethical finance by explaining the economic dimension of finance, which really impressed me as an economist. Although some Shariah scholars tend to emphasize on creation of wealth as more important than distribution (Bakar, 2016), many Muslim economists who always stressed that the main role of financial sector is to support the creation of wealth from real economic activities, not simply through monetization process. This is a haunting issue in conventional finance as well (see, for example, Levine, 1997; Cecchetti & Kharroubi, 2015). The global debt has risen to \$152 trillion in 2016, which is at 225 percent of world GDP, is at an all time high (International Monetary Fund, 2016). This shows that somehow finance has derailed from its original task to support the real sector: the monetization process has lead us with greater debt that produces smaller amount of real wealth, and we have to create more real wealth in order to serve our financial obligations.

From the book, I conclude that the greatest challenge to develop a true Islamic finance industry is to change the mindset of Muslims and non-Muslims who are looking for ethical finance to accept the risk from profit and loss sharing based contracts. There is no use of having more scholars with cognitive dissonance and more brave in promoting changes in the industry if the society is not ready to embrace the risk that is concomitant with the change.

With regard to the technical aspects of the book, I found that the writing style of the book is very casual and easy to understand by the public. The author did an excellent job at simplifying the technical descriptions of many Islamic financial products throughout the book. Many hadiths used throughout the book are retrieved from the canonical collections, and many juristic opinions were quoted from the primary books of Islamic law since the classical period until today. This referencing style increases the reliability of the facts and opinions discussed by the author throughout the book. The notes on Arabic-English transliteration and 32 pages of glossary of Islamic terms are very helpful to assist non-Arab readers to comprehend the issues discussed in the book.

Overall, I applaud the author for being able to critically evaluate many significant issues of Islamic finance in a balanced approach supported by unbiased discussions. The book was able to convince me to remain optimistic of the future of Islamic finance despite the many challenges and problems that it is facing at the moment.

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